

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO.: **24-cr-20245-MD**

UNITED STATES OF AMERICA,

v.

OMAR CABRERA HERNANDEZ.

SENTENCING MEMORANDUM

In the summer of 2022 Omar Hernandez sought out federal law enforcement officers investigating health care fraud. Mr. Hernandez met with them at his insistence, confessed to participating in Medicare fraud and agreed to work undercover. Mr. Hernandez's conduct was unprompted by law enforcement, he wasn't visited by anyone with a badge or credentials, he was never given an ultimatum or a choice, his decision and conduct was dictated only by his conscience. The undersigned was retained well after Mr. Hernandez had engaged the authorities. Since then, Mr. Hernandez has worked undercover on behalf of the United States government in at least three (3) investigations that shut down active Medicare fraud operations and resulted in Indictments. Mr. Hernandez cooperated fully and extensively. He provided information, he worked undercover and recorded incriminating conversations by individuals running companies actively defrauding public health programs. He continued to assist law enforcement without condition until ordered to cease by his pretrial service supervisor last month.

Omar Hernandez is a 56-year-old man riddled with health issues. He is married, lives with his 2 children, his wife, and his stepmother. Mr. Hernandez lost his mother before he was one year old when she committed suicide by setting fire to herself. He was raised by his stepmother since he was four years old. She is old and infirm. She lives and is cared for in his

home. Mr. Hernandez suffers a severe case of Type II Diabetes which requires a permanently installed glucose monitoring system on his body, and a regimen of medications and insulin. Mr. Hernandez also suffers from high blood pressure, colitis, and other conditions. He is currently under the care of a psychiatrist with whom he meets every 3 weeks and who prescribes him psychiatric medication. He has been hospitalized on several occasions within the last two years. When he turned himself in to address the information, FDC refused to admit him, and he had to return when his blood sugar was acceptable. During his PSI interview he had a diabetic incident and had to go to the hospital before completing the interview.

18 USC§3553 directs the court to impose a sentence sufficient, but not greater than necessary to reflect the nature and circumstances of the offense and the history and characteristics of the Defendant. The sentence should reflect the seriousness of the offense, promote respect for the law and provide just punishment for the offense, to afford adequate deterrent from criminal conduct, and to protect the public from further crimes of the defendant. The guidelines are but one of several factors to be considered by the Court when imposing a sentence. The PSI establishes a guideline level of 17 with a corresponding sentence of 30 to 37 months. Considering the characteristics of Mr. Hernandez, the unique circumstances of his conduct, and his fragile health, a sentence as suggested by the guidelines would be excessive.

The characteristics of the case are not unique. Mr. Hernandez delivered illegal payments to obtain patients for Medicare services on behalf of a clinic committing health care fraud. However, his conduct over the last 3 years has been extraordinary, he voluntarily turned himself into law enforcement and has worked undercover for the duration. The work has been dangerous. He has done what law enforcement often cannot do, i.e. enter the inner sanctum of medical fraud circles and gather important evidence. Considering the extraordinary work

provided by Mr. Hernandez, and his compromised health, a guidelines sentence is not appropriate.

Counsel will provide a more detailed presentation at the time of sentencing.

I HERBY CERTIFY that a true and correct copy of the foregoing was provided to the office of the United States Attorney via the CM/ECF filing system this date.

Respectfully submitted,

/s/ Juan de Jesus Gonzalez

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